

REMARKS/ARGUMENTS

The Office Action held “The amendment filed on 06 January 2005 is not fully responsive to the prior Office action because of the following omission(s) or matter(s): the Applicant’s reply does not comply with 37 C.F.R. 1.111 because it does not include arguments pointing out specific distinctions believed to render the added new claim(s) 40-47 are patentable over the applied reference (US 5,978,456 Takeuchi et al.).”

Claims 40-45 depend at least indirectly from claim 1 and are thus allowable for at least the reasons discussed in the January 6, 2005 Amendment/Response with respect to this base claim. Claim 1 was rejected under 35 U.S.C. §102(a) as allegedly being anticipated by Ball et al (U.S. ‘200, hereinafter “Ball”). Applicant submits that claim 1 (and hence claims 40-45 which depend therefrom) are allowable since Ball does not constitute “prior art” against the present application. (See page 21 of the January 6, 2005 Amendment/Response).

Moreover, page 9, line 12 to page 10, line 8 of the January 7, 2004 Appeal Brief discusses the differences between independent claim 1 and Takeuchi as follows:

“Independent claim 1 requires sampling the usage of network resources by an individual terminal and comparing a measurement of this sampled usage with measurements or calculations made by the individual terminal. A goal of the invention of claim 1 is to try to minimize the amount of traffic flowing through a network which is purely for the purpose of measuring network usage by users so that they can be billed on

the basis of their usage. The invention of claim 1 resolves this technical problem by performing at least some of the work at each terminal. Unfortunately, this solution is susceptible to a user interfering with the measurements taken at their own respective terminal in an attempt to defraud the network operator. The invention of claim 1 avoids this problem by sampling the actual network usage of the individual terminal and checking that it does indeed correspond to the usage and/or charge reported by the corresponding terminal.

Neither Takeuchi nor Dent discloses performing the measurement of network usage for the purposes of billing users by a network operator, except in the conventional centralized manner. Neither of these references therefore teaches or suggests performing sampling of the network usage of an individual terminal and comparing this with measurements of usage and/or charge reported by the corresponding terminal.”

Accordingly, independent claim 1 and each of its dependents (including claims 40-45) are allowable for at least the reasons discussed above.

Independent claim 46 requires, *inter alia*, “performing a sampling step to check the validity of the measurement performed by each terminal, in which at some part of the network other than at the respective terminal, only a part of the total use of network resources made by the respective terminal is measured and compared with either the measurements taken by the respective terminal in step (a) or the charge calculated in step (b).” Takeuchi fails to teach or suggest this claimed limitation.

Independent claim 47 requires, *inter alia*, “measuring the quantity of data flowing from the originating customer into the network and the quantity of data

BRISCOE et al.
Application No. 09/674,706
May 24, 2005

flowing out of the network to the destination customer.” Takeuchi fails to teach or suggest this claimed limitation.

Applicant respectfully solicits an Office Action on the merits. If the Examiner has any questions or believes that an interview would further prosecution of this application, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

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